

To: Posey County Clerk,
Donald Baier, President Posey County Bar Association
Jake Warrum, Treasurer Posey County Bar Association
Indiana Supreme Court Division of State Court Administration

From: The Honorable James Redwine, Judge Posey Circuit Court
The Honorable Brent Almon, Judge Posey Superior Court

RE: Notice of proposed local rules for the Posey Circuit and Superior
Courts

Date: May 31, 2006

Pursuant to Ind. Trial Rule 81 and Order of the Indiana Supreme Court dated December 22, 2005, Cause No. 94S00-0512-MS-685, the Posey Circuit and Superior Courts submit the attached proposed local rules for comment by members of the Posey County Bar and public.

Comment on the proposed rules is requested and will be received until July 1, 2006. All comments should be made in writing and submitted to:

The Honorable James Redwine,
Judge Posey Circuit Court
P.O. Box 745
Mt. Vernon, IN 47620
Or
The Honorable Brent Almon
Judge Posey Superior Court
P.O. Box 604
Mt. Vernon, IN 47620.

The following local rules may not take effect until approved by the Indiana Supreme Court and will be submitted to the Indiana Supreme Court for approval on or before August 1, 2006:

- i. local rules for special judge selection in civil cases pursuant to Ind. Trial Rule 19 (H);
- ii. local rules for assignment of criminal cases and selection of successor judges pursuant to Criminal Rule 2.2;
- iii. local rules regarding court reporter services pursuant to Administrative Rule 15;
- iv. local rules on case reallocation plans pursuant to Administrative Rule 1 (E).

Subject to said approval, the effective date of the proposed local rules will be January 1, 2007.

RULE FOR THE ASSIGNMENT OF CASES
IN THE POSEY CIRCUIT AND SUPERIOR COURTS
AND FOR CHANGE OF JUDGE IN FELONY
AND MISDEMEANOR CASES

The following procedure shall be applied by the Clerk of the Courts of Posey County for the non-discretionary assignment of cases between the Courts of Posey County and for the selection of a Judge in a felony or misdemeanor case in the event of a Change of Judge or the entry of an order of disqualification or recusal:

LR01-65-CR-2.2 **Rule for the Assignment of Criminal Cases in the Posey Circuit and Superior Courts.** The Clerk of the Courts of Posey County shall assign criminal cases between the Courts of Posey County as follows:

(A) Felony (CF) 1. ~~Felony (CF)~~ cases shall be randomly assigned to the Posey Circuit and Superior Courts in accordance with Paragraph 7 of this Rule LR03-65-AR1. If an indictment or information filed contains both felony and misdemeanor charges, the case shall be considered a felony case (CF).

(B) Misdemeanor (CM) 2. ~~Misdemeanor (CM)~~ cases shall be assigned to the Posey Superior Court.

LR02-65-AR1 **Rules for Assignment of Civil Cases in the Posey Circuit and Superior Courts.** Civil cases shall be assigned between Posey Circuit and Superior Courts as follows:

3. ~~Civil Plenary (CP, CT, MI) cases shall be randomly assigned to the courts in accordance with LR03-65-AR1 with the exception that petitions for hardship~~

license shall be assigned to the Posey Superior Court and petitions for change of name shall be assigned to the Posey Circuit Court.

3. ~~**Dissolution of Marriage (DR)**~~ cases shall be assigned to the Posey Circuit Court beginning October 1, 1999.

4. ~~**Small Claims (SC), Traffic Violations and Other Infractions (IF), Ordinance Violations (OV), and Protective Order (PO)**~~ cases shall be assigned to the Posey Superior Court.

6. ~~**Mental Health (MH), Juvenile (JC, JD, JS, JM, JT), Reciprocal Support (RS), Paternity (JP), Adoption (AD), and Probate (ES, EU, GU, TR)**~~ cases shall be assigned to the Posey Circuit Court.

(A) Dissolution of Marriage (DR), Protective Orders (PO) where the parties have an unemancipated child in common, Mental Health (MH), Juvenile (JC, JD, JS, JM, JT), Reciprocal Support (RS), Paternity (JP), Adoption (AD), and Probate (ES, EU, GU, TR) cases shall be assigned to the Posey Circuit Court.

(B) Small Claims (SC), Traffic Violations and Other Infractions (IF), Ordinance Violations (OV), and Protective Order (PO) (except where the parties have an unemancipated child in common) cases shall be assigned to the Posey Superior Court.

(C) Civil Plenary (CP, CT, MI) cases shall be randomly assigned to the courts in accordance with LR03-65-AR1 with the exception that petitions for hardship license shall be assigned to the Posey Superior Court and petitions for change of name shall be assigned to the Posey Circuit Court.

LR03-65-AR1 Rule for Random Assignment of Felony and Civil Plenary

Cases. 7. The Clerk of the Courts of Posey County is directed to devise and utilize a plan for

the random and equal assignment of felony and civil plenary cases to the Posey Circuit and Superior Courts.

LR04-65-CR2.2-1 Change of Judge in Criminal Cases.

8. (A) In the event a change of judge, recusal, or disqualification is granted by the ~~J~~judge of the Posey Circuit or Superior Court in a felony or misdemeanor case under the provisions of Indiana Criminal Rule 12 ~~or in the event an order of disqualification or recusal is entered by the Judge of the Posey Circuit or Superior Court in a felony or misdemeanor case~~, if a change of judge is granted pursuant to Indiana Post-Conviction Remedy Rule 1(4)(b), and upon change of judge in infraction and ordinance violation cases, the Clerk shall assign the case to the remaining Jjudge of the Posey Superior or Circuit Court, as the case may be. Should the ~~J~~judge of the Posey Superior or Circuit Court be unwilling or ineligible to serve as special Jjudge in the case thus assigned, the case shall then be assigned by the Clerk to a duly appointed Ssenior ~~J~~judge ~~in of the court in which the case is pending, or in a random and equal manner to one of the following Judges from a county contiguous with Posey County who have consented to serve as Judge in the Posey Circuit and Superior Courts: the Honorable Marvin D. Stratton, Judge of Pike Circuit Court, the Honorable Earl G. Penrod, Judge of the Gibson Superior Court, and the Honorable Walter H. Palmer, Judge of Gibson Circuit Court.~~ If such senior judge of the court in which the case is pending is unwilling or ineligible to serve as special judge in the case, the case shall then be assigned by the Clerk to the senior judge of the other Posey County Court. If no senior judge is available or willing to serve, the Clerk shall assign the case to a full-time judge or magistrate serving in a court in Vanderburgh or Gibson County. The Clerk of the Courts of Posey County shall each January 15 compile a list of the judges then serving in Gibson and Vanderburgh Counties, post the same in the offices of the

Clerk, and said assignments shall be made from said list seriatim. If no Jjudge in Vanderburgh or Gibson County is available to serve under the provisions of this Rrule; or if the Jjudge of the Posey Circuit or Superior Court feels determines that special circumstances merit the appointment of a Sspecial Jjudge, the Court shall certify the case to the Indiana Supreme Court for the appointment of a Sspecial Jjudge.

9. (B) A Jjudge assigned to a case pursuant to these local rules ~~the Rule~~ remains the Jjudge in the case unless the Jjudge shall become ineligible or unwilling to serve as ~~Judge in the case~~, in which event a new Jjudge shall be assigned in accordance with this Rrule if ~~the case is a felony or misdemeanor or, in all other cases, in accordance with the Indiana Rules of Trial Procedure.~~

10. (C) If In the event a felony or misdemeanor case is dismissed ~~and refiled from and re-filed in the Posey Circuit and/or Superior Court,~~ or a new case is filed based on the same underlying incident, the Jjudge assigned to the case at the time of the dismissal shall be assigned as the Jjudge in the case upon the case being filed or re-filed ~~or the new case filed,~~ unless the Jjudge in the dismissed case shall order otherwise, in which event the case shall be assigned to another Jjudge in accordance with this Rrule.

~~11.—The Judge of the Posey Circuit or Superior Court may transfer any case to the Posey Superior or Circuit Court, as the case may be, with the permission of the Judge of the Court to which the case is to be transferred.~~

RULE FOR THE SELECTION OF A SPECIAL JUDGE

IN A CIVIL CASE IN THE

POSEY CIRCUIT AND SUPERIOR COURTS

LR05-65-TR79-1 Rule for the Selection of a Special Judge in a Civil Case in the

Posey Circuit and Superior Courts. ~~In the event that it~~ If it shall become necessary to select a ~~Special Judge~~ special judge in the Posey Circuit or Superior Court pursuant to Rule 79 (H), Indiana Rules of Trial Procedure, the following procedure shall be used in the selection of the ~~Special Judge~~ special judge:

(A) 1. The ~~J~~judge of the Posey Circuit Court shall serve as ~~S~~special ~~J~~judge in all cases ~~in wherein the judge of the Posey Superior Court is ineligible to serve or an order of disqualification or recusal has been entered.~~ wherein the judge of the Posey Superior Court is ineligible to serve or an order of disqualification or recusal has been entered. ~~and the~~ The ~~J~~judge of the Posey Superior Court shall serve as ~~S~~special ~~J~~judge in all cases ~~in wherein the judge of the Posey Circuit Court is ineligible to serve or an order of disqualification or recusal has been entered.~~ wherein the judge of the Posey Circuit Court is ineligible to serve or an order of disqualification or recusal has been entered.

(B) 2. ~~In the event that the~~ Should the ~~J~~judge of the Posey ~~Circuit Superior~~ or Posey Superior ~~Circuit~~ Court ~~be unwilling or ineligible is unable to serve as Sspecial Jjudge in a the case in the Posey Superior or Circuit Court, as the case may be, thus assigned, the case shall then be assigned by the Clerk to a senior judge of the court in which the case is pending. If such senior judge of the court in which the case is pending is unwilling or ineligible to serve as special judge in the case, the case shall then be assigned by the Clerk to the senior judge of the other Posey County Court.~~ then a Special Judge shall be selected at random from the following list of eligible Judges in accordance with a procedure devised and utilized by the Clerk of the Courts: the Honorable Marvin D. Stratton, Judge of Pike Circuit Court, the Honorable Earl G. Penrod, Judge of Gibson Superior Court, the Honorable Walter H. Palmer, Judge of the Gibson Circuit Court and the Honorable Robert R. Aylsworth, Judge of Warriek Superior Court.

(C) 3. ~~If no judge qualifies and assumes jurisdiction under subdivision~~ If no judge qualifies and assumes jurisdiction under subdivision (A) or (B) of this rule, then a special judge shall be selected from a list of eligible judges

pursuant to TR79-J. The Clerk shall compile a list of those eligible for service each January 15, post the same in the offices of the Clerk, and shall assign from said list seriatim.

(D) If no Judge is available to serve under the provisions of this rule or if the Judge of the Posey Circuit or Superior Court feels that special circumstances merit the appointment of a Special Judge by the Indiana Supreme Court, the Court shall certify the case to the Supreme Court for the appointment of a Special Judge.

LR06-65-CR2.2-4 Transfer of Cases. The judge of the Posey Circuit or Superior Court may transfer any case to the Posey Superior or Circuit Court, as the case may be, with the permission of the judge of the Court to which the case is to be transferred.

LR07-65-TR6 Extension of Time to Answer Complaint. A thirty (30)-day extension of time to answer the original complaint in a civil action shall be effective without separate order of the court upon filing of a notice of such extension by the answering party prior to the original answer date.

LR08-65-TR16 Pre-Pretrial Conferences in the Posey Circuit Court. In all Posey Circuit or Superior Court matters, except children in need of services, protective orders, juvenile issues, criminal cases, election recounts, and other such statutorily prescribed proceedings and emergency matters, within 30 days after the issues are closed, the party that initiated the cause shall schedule a pre-pretrial conference involving the parties and their attorneys as follows.

(A) This pre-pretrial shall be held in person, or with prior court permission, electronically, within 60 days after the issues are closed.

(B) All parties and their attorneys shall attend this pre-pretrial, which may be held at a location agreeable to all parties. The judge will not be involved in this pre-pretrial.

(C) The parties shall discuss settlement and other Trial Rule 16 matters. A written report shall be made to the court within 14 days after this pre-pretrial.

(D) If all issues are not settled during this pre-pretrial, the parties shall engage in mediation. The parties may agree upon a mediator who is willing and able to serve or the parties may contact the court to name a panel. The parties shall equally share the costs of mediation. The Posey Circuit or Superior Court shall be informed in writing of the name and address of any agreed upon mediator as well as the date, time and place of the first mediation session.

LR09-65-TR16 TransParenting Seminar. In all domestic relation matters involving minor children, the parents are ordered to attend and pay for the “TransParenting” seminar prior to trial on the merits.

LR010-65-TR16 Guardian Ad Litem. In all cases where the appointment of a Guardian Ad Litem is required by law, the court will appoint an attorney in good standing in the Indiana Bar whose fees and expenses shall be paid by the party or parties initiating the action and/or, if necessary, from public funds at the prevailing pauper attorney rate.

AMENDED

POSEY COUNTY LOCAL RULE CONCERNING COURT REPORTERS

~~The undersigned courts comprise all of the courts of record of Posey County, Indiana and hereby adopt the following local rule by which court reporters services shall be governed.~~

LR011-65-AR15 COURT REPORTERS.

~~Section one: Definitions.~~ **Section 1 - Definitions.** The following definitions shall apply under this local rule 11.

(1) A **Court Reporter** is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) **Equipment** means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing and transcribing electronic data.

(3) **Work Space** means that portion of the court's facilities dedicated to each court reporter including, but not limited to, actual space in the courtroom and any designated office space.

(4) **Page** means the page unit of transcript, which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

(5) **Recording** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(6) **Regular hours worked** means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

(7) **Gap hours worked** means those hours worked that are in excess of the regular hours worked but hours not in excess of ~~forth~~ forty (40) hours per work week.

(8) **Overtime hours worked** means those hours worked in excess of forty (40) hours per work week.

(9) **Work week** means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(10) **Court** means the particular court for which the court reporter performs

services. **Court** may also mean all of the courts in Posey County.

(11) **County indigent transcript** means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(12) **State indigent transcript** means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) **Private transcript** means a transcript, including, but ~~not~~ not limited to, a deposition transcript and a transcript requested by a party who is not indigent, that is paid for by a private party.

(14) **Minimum fee** means the minimum amount a Court Reporter may charge for a small transcript which does not add up to \$35.00 (nine pages or less). The minimum fee may not be charged in addition to the per-page fee.

(15) **Labor fee** is a fee that Court Reporters may charge for the amount of time spent binding the transcript and exhibit binders which is to be figured at an approximate hourly rate based upon the Court Reporter's annual court compensation.

(16) **Office supplies** are the supplies required and utilized for the binding and electronic transmission of the ~~T~~transcripts, and the Court Reporter may be reimbursed for the office supplies pursuant to a Schedule of Transcript Supplies for the Posey Circuit and Posey Superior Courts.

(17) **Expedited transcripts** are transcripts that have been requested to be ~~prepared~~ completed by court reporters with a completion date of within 30 days from the date ordered.

~~Section two. Salaries and Per Page Fees.~~ **Section 2 - Salaries and Per Page Fees.**

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work

hours, gap hours or overtime hours. The supervising ~~C~~ourt shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be ~~\$3.50***~~ \$4.25, including pages prepared for the Index and Table of Contents plus ~~\$2.00***~~ \$4.25 per first page for each exhibit ~~page~~, plus office supply costs pursuant to the Schedule of Transcript Supplies. ~~The;~~ the Court Reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts that are not prepared during regular work hours.

(3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be ~~\$3.50***~~ \$4.25, including pages prepared for the Index and Table of Contents, plus ~~\$2.00***~~ \$4.25 per first page for each exhibit ~~page~~, plus office supply costs pursuant to the Schedule of Transcript Supplies; ~~and m.~~ Monies shall be paid directly to the court reporter if done during non-regular work hours, or the monies shall be paid directly to the court for any transcripts ~~transcriptions~~ that are prepared during regular work hours.

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be ~~\$3.50***~~ \$4.25, including pages prepared for the Index and Table of Contents, plus ~~\$2.00***~~ \$4.25 per first page for each exhibit ~~page~~ and \$2.00 for each additional page of each exhibit, plus office supply costs pursuant to the Schedule of Transcript Supplies.

(5) A court reporter shall charge \$1.00 per page for each copy of a transcript.

(6) If a court reporter is requested to prepare a non-indigent transcript, all such transcripts are to be transcribed outside of regular working hours or during compensatory time

taken in lieu of monetary compensation for overtime, and the costs of the transcripts are to be paid directly to the court reporter. The preparation of these transcripts is considered part of the court reporter's regular duties.

(7) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent (transcripts not prepared during regular work hours) or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(8) Each court reporter may charge a \$20.00 hourly labor fee for the time ~~spent~~ binding the transcript and the exhibits ~~binds based upon the Court Reporter's annual court compensation.~~

(9) Each court reporter may charge for office supplies required and utilized for the binding and electronic transmission of the ~~Transcript~~ pursuant to the Schedule of Transcript Supplies for the Posey Circuit and Posey Superior Courts.

(10) Each court reporter may charge a minimum transcript fee of \$35.00 for transcripts ~~less than 10~~ nine (9) pages in length. ~~(This is not in addition to the per page fee). No other fees may be charged in addition if a minimum transcript fee is charged.~~

(10) The maximum per page fee a court reporter may charge for the preparation of a private or county expedited transcript with the completion date of within 30 days shall be ~~\$5.00***, including pages prepared for the Index and Table of Contents, plus \$2.00*** per page for each exhibit page, plus office supply costs pursuant to the Schedule of Transcript. The maximum per page fee a court reporter may charge for the preparation of a private expedited transcript with the completion date of within 5 working days shall be \$7.00***, including pages~~

~~prepared for the Index and Table of Contents, plus \$2.00*** per page for each exhibit page,~~
twice the amount of a nonexpedited private transcript plus office supply costs pursuant to the
Schedule of Transcript ~~and binding fees.~~

~~Section Three. Private Practice~~ **Section 3 - Private Practice.**

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must at a minimum designate the following:

- (a) The reasonable market rate for the use of equipment, work space and supplies;
- (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
- (c) The method by which the court reporter is to reimburse the court for the use of the equipment, workspace and supplies.

(2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours or during compensatory time taken in lieu of monetary compensation for overtime.

SCHEDULE OF COST OF TRANSCRIPT SUPPLIES

Section 4 – Schedule of Cost of Transcript Supplies.

The following are the prices ~~Court Reporters~~ in Posey County's courts are allowed to charge for the use of each of the following items in the preparation of transcripts:

* <u>Compact disk and plastic case</u>	<u>\$2.50 for each one used</u>
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(priced together)	
3.5 Diskette and plastic cover	\$1.00 <u>\$1.50</u> for each one used
(priced together)	
*-Binders (per each binder that is used for a transcript)	\$1.00 <u>\$1.50</u> for each one used
*-Labels to identify exhibits	\$0.05 <u>\$0.10</u> for each one used
Film and cost of development	Actual cost with receipt <u>being provided plus thirty-three (33%) percent</u>
*-Plastic sleeves for exhibits	\$1.00 <u>\$0.15</u> for each one used

~~Any other supplies used will be charged at the cost to the Court Reporter with a receipt being provided~~

Any other supplies used will be charged at the cost to the court reporter plus thirty-three (33%) percent.

LR012-65-TR79 A court, upon its own motion, or upon good cause shown, on a case-by-case basis, may by specific order provide relief from the operation of these local rules.

~~Prices will be modified to reflect increases in costs as such apply to the Court Reporter.~~

Adopted the ____ day of _____, 200__, and reaffirmed
 ____ this ____ day of _____, 200__.

 _____ Honorable James M. Redwine
 _____ Judge Posey Circuit Court

 _____ Honorable S. Brent Almon
 _____ Judge, Posey Superior Court